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FM AIT TAIPEI
TO RHMFIUU/USCBP WASHINGTON DC PRIORITY
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SIPDIS

SENSITIVE
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DEPT FOR ISN/ECC - YWONG, ACHURCH AND KCROUCH
DEPT FOR EAP - SBREMNER
CBP/INA FOR RWATT AND JGOUGE
DEPT FOR ENERGY/NNSA FOR T. PERRY AND S. JONES

E.O. 12958: N/A

TAGS: [ETTC](#) [MNUC](#) [PARM](#) [PREL](#) [KSTC](#) [KNNP](#) [TW](#)

SUBJECT: EXBS: TAIWAN MONTHLY REPORTING CABLE - SEPTEMBER - OCTOBER
5, 2007

II. BROAD ITEMS OF INTEREST TO ADVISORS AND AGENCY
MANAGERS:

(SBU) During the week of November 19, the EXBS Advisor will be in Washington, D.C. for her 6-month review and consultation.

II. COMPLETED ACTIONS FOR THE REPORTING PERIOD.

IA. SITE ASSESSMENTS AND MEETINGS DURING REPORTING PERIOD:

11. (SBU) On September 12 and October 2, the EXBS Advisor met with Special Agents of the Ministry of Justice Investigation Bureau (MJIB) and a Prosecutor from the Taiwan High Prosecutors Office of the Ministry of Justice, respectively.

During the September 12 meeting, MJIB officials explained that their mission is to investigate crimes related to corruption, election fraud, money laundering, drug trafficking, cyber crime and national security. Export controls, counter-terrorism, anti-terrorism, and counter-proliferation fall under national security investigations. The branch offices located throughout Taiwan actually investigate cases under guidelines provided by headquarters. After an MJIB Special Agent has gathered sufficient evidence on a case, the case is then referred to the Prosecutors Office or to the Bureau of Foreign Trade (BOFT) of the Taiwan Ministry of Economic Affairs for disposition. MJIB does not have the authority to close out cases. To date in 2007, MJIB investigated five export control cases, two of which have been closed, two indicted, and one on-going.

During the October 2 meeting, the Taiwan High Prosecutors Office official explained that when his office receives the case file, it is assigned to a line Prosecutor. The assigned Prosecutor then will review the file and determine whether sufficient evidence exists to merit criminal prosecution; i.e., indict (bring formal charges) against the accused. If the decision is not to indict, the assigned Prosecutor will draft a "non-indictment" paper for the file. The assigned Prosecutor can also decide to suspend the indictment for less serious crimes and for first time offenders.

Prosecutors as well as the judge have the authority to grant search warrants requested by investigators and to issue subpoenas to compel testimony by witnesses. Prosecutors have the authority to settle the penalty portion of a case if the statutorily imposed penalty does not include the death penalty, life in prison, or more than three years of imprisonment. Since export control violations carry a maximum of two years of imprisonment, prosecutors can settle what penalty can be imposed in export control cases. Prosecutors, however, do not have the authority to settle the actual charges or

the count of charges. All settlements are approved by a judge.

For those cases that are not settled, the sitting judge renders the final verdict. The judge will consider evidence submitted by the government and the defense. The standard of proof for criminal cases is "beyond a reasonable doubt." In 2003, criminal procedural law was amended to include the right to cross-examine witnesses.

Local District Courts are trial courts and the High Court and the Supreme Court are appeals courts. Only serious crimes can be appealed to the Supreme Court. Because export control cases have a statutory maximum of two years of imprisonment, they are not considered serious crimes and cannot be appealed to the Supreme Court.

¶2. (SBU) During the week of September 17, the EXBS Advisor was in Washington, D.C. for export control meetings.

¶3. (U) On October 5, the EXBS Advisor participated in the Taiwan-Germany Industry-Government Outreach Seminar in Taipei. One hundred and ten company representatives attended; 42 representatives from German-affiliated companies, 50 representatives from Taiwan companies, and the remainder from "other" companies. (The U.S.-affiliated companies fall under the "other" category.)

The one-day seminar consisted of reviews of German and Taiwan export control systems; elements of internal controls promoted by Germany; export control outreach programs by Taiwan; and presentations of internal control programs by Siemens Limited Taiwan and DuPont Taiwan Limited. Two export control officials from the Federal Office of Economics and Export Control (BAFA) and one from the German Federal Ministry of Economics and Technology (BMWi) traveled from Germany to Taiwan for the seminar.

Not surprisingly, the questions from attendees centered on issues related to identification of items on the control list; loss of business opportunities due to export control compliance by companies; costs associated with setting up an internal control system (computer, software, personnel); license application processing time; and extraterritorial application of export control laws (this was a question for the United States since Germany and Taiwan do not have reexport controls as implemented by the United States). In responding to the questions, officials from Germany, Taiwan, and the United States stressed the importance of building export control knowledge within the company and the necessity of corporate management's commitment to export controls. Siemens and DuPont officials added that, while there is a direct cost associated with complying with export control requirements, they have successfully used their sound internal controls as a marketing tool in international business.

¶B. BLUE LANTERN:

(SBU) On October 1, the EXBS Advisor accompanied officials of the Directorate of Defense Trade Controls (DDTC) to a meeting with the Taiwan Ministry of National Defense (MND) as part of DDTC's Blue Lantern Team visit to Taiwan. The Blue Lantern Team briefed MND officials on the legal basis for U.S. munitions controls; the structure of DDTC; and purpose and goals of Blue Lantern checks. The MND officials reviewed their organizational structure; legal basis for Taiwan munitions controls; and MND's strategic plan for the next five years. During the discussion, the MND officials stated that a program that explains the complicated U.S. export controls of munitions would benefit businesses that import U.S. munitions and munitions parts into Taiwan. The Blue Lantern Team stated that they are discussing organizing an Asia regional munitions export control seminar with the Society for International Affairs (SIA). (The SIA is a Washington-based nonprofit organization that organizes munitions control programs in the United States and overseas.) The Blue Lantern Team said they would inform MND officials if such a program is organized.

¶C. TRAINING CONDUCTED DURING REPORTING PERIOD:

(U) No EXBS training was conducted during the reporting period.

III. UPCOMING TRAINING:

(U) The two-day Transit/Transshipment training, implemented by the Department of State through Los Alamos Technical Associates, Inc. is being planned on October 30-31 in Taipei.

(U) The week-long Targeting and Risk Management training implemented by Customs and Border Protection is being planned for the week of November 12 in Kaohsiung.

IV. UPCOMING MEETINGS

(SBU) On October 23, the EXBS Advisor and a Container Security Initiative Consultant will meet with officials of the MJIB to discuss recently reported export control cases.

(U) On October 24, the EXBS Advisor and an officer from the Economic Section will meet with two professors from Kainan University in Taoyuan County to discuss economic and security implications of relocation of Taiwanese high-tech companies to the People's Republic of China. The two professors participated in BOFT's visit to certain import and export companies in August 2007.

IV. RED FLAG ISSUES:

None.

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